

106TH CONGRESS  
2D SESSION

# S. 2274

To amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 22, 2000

Mr. GRASSLEY (for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. HARKIN, Mr. REED, and Mr. MOYNIHAN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Opportunity  
5 Act of 2000”.

1 **SEC. 2. OPPORTUNITY FOR FAMILIES OF DISABLED CHIL-**  
 2 **DREN TO PURCHASE MEDICAID COVERAGE**  
 3 **FOR SUCH CHILDREN.**

4 (a) STATE OPTION TO ALLOW FAMILIES OF DIS-  
 5 ABLED CHILDREN TO PURCHASE MEDICAID COVERAGE  
 6 FOR SUCH CHILDREN.—

7 (1) IN GENERAL.—Section 1902 of the Social  
 8 Security Act (42 U.S.C. 1396a), as amended by the  
 9 Foster Care Independence Act of 1999 (Public Law  
 10 106–169; 113 Stat. 1822) and the Ticket to Work  
 11 and Work Incentives Improvement Act of 1999  
 12 (Public Law 106–170; 113 Stat. 1860), is  
 13 amended—

14 (A) in subsection (a)(10)(A)(ii)—

15 (i) by striking “or” at the end of sub-  
 16 clause (XVI);

17 (ii) by adding “or” at the end of sub-  
 18 clause (XVII); and

19 (iii) by adding at the end the fol-  
 20 lowing new subclause:

21 “(XVIII) who are disabled chil-  
 22 dren described in subsection (aa);”;  
 23 and

24 (B) by adding at the end the following new  
 25 subsection:

1       “(aa)(1) Individuals described in this subsection are  
2 individuals—

3               “(A) who have not attained 21 years of age;

4               “(B) who would be considered disabled under  
5 section 1614(a)(3)(C) (determined without regard to  
6 the reference to age in that section) but for having  
7 family income or resources (as determined under  
8 title XVI for children) that exceed the requirements  
9 for receipt of supplemental security income benefits;  
10 and

11              “(C) whose family income (as so determined)  
12 does not exceed—

13                      “(i) 600 percent of the income official pov-  
14 erty line (as defined by the Office of Manage-  
15 ment and Budget, and revised annually in ac-  
16 cordance with section 673(2) of the Omnibus  
17 Budget Reconciliation Act of 1981) applicable  
18 to a family of the size involved; or

19                      “(ii) such higher percent of such poverty  
20 line as a State may establish, except that no  
21 Federal financial participation shall be provided  
22 under section 1903(a) for any medical assist-  
23 ance provided to an individual who would not be  
24 described in this subsection but for this clause.

1       “(2) A State shall provide the same amount, dura-  
 2       tion, and scope of medical assistance under the State plan  
 3       to an individual described in paragraph (1) who has at-  
 4       tained age 18 but has not attained age 21 as the State  
 5       provides under the State plan to an individual who has  
 6       not attained age 18.”.

7               (2) INTERACTION WITH EMPLOYER-SPONSORED  
 8       FAMILY COVERAGE.—Section 1902(aa) of the Social  
 9       Security Act (42 U.S.C. 1396a(aa)), as added by  
 10       paragraph (1), is amended by adding at the end the  
 11       following new paragraph:

12       “(3)(A) If an employer of a parent or caretaker rel-  
 13       ative of an individual described in paragraph (1) offers  
 14       family coverage under a group health plan (as defined in  
 15       section 2791(a) of the Public Health Service Act), the  
 16       State shall—

17               “(i) require such parent or caretaker relative to  
 18       apply for, enroll in, and pay premiums for, such cov-  
 19       erage as a condition of such parent’s or caretaker  
 20       relative’s child being or remaining eligible for med-  
 21       ical               assistance               under               subsection  
 22       (a)(10)(A)(ii)(XVIII) if the parent or caretaker rel-  
 23       ative is determined eligible for such coverage and the  
 24       employer contributes more than 40 percent of the

1 total cost of annual premiums for such coverage;  
2 and

3 “(ii) if such coverage is obtained—

4 “(I) subject to paragraph (2) of section  
5 1916(h), reduce the premium imposed by the  
6 State under that section (if any) in an amount  
7 that is based on the amount of the parent or  
8 caretaker relative’s contribution for such cov-  
9 erage, the actuarial value of the medical assist-  
10 ance provided to such parent or caretaker rel-  
11 ative’s child, or both; and

12 “(II) treat such coverage as a third party  
13 liability under subsection (a)(25).

14 “(B) In the case of a parent or caretaker relative to  
15 which subparagraph (A) applies—

16 “(i) if the family income (as so determined) of  
17 such parent or caretaker relative does not exceed  
18 300 percent of the income official poverty line (as so  
19 defined), a State may provide for payment of any  
20 portion of the premium for such family coverage  
21 that the parent or caretaker relative is required to  
22 pay for a period not to exceed 12 months; and

23 “(ii) any payments made by the State under  
24 clause (i) shall be considered, for purposes of section  
25 1903(a), to be payments for medical assistance.”.

1 (b) STATE OPTION TO IMPOSE INCOME-RELATED  
 2 PREMIUMS.—Section 1916 of the Social Security Act (42  
 3 U.S.C. 1396o), as amended by the Ticket to Work and  
 4 Work Incentives Improvement Act of 1999 (Public Law  
 5 106–170; 113 Stat. 1860), is amended—

6 (1) in subsection (a), by striking “subsection  
 7 (g)” and inserting “subsections (g) and (h)”; and

8 (2) by adding at the end the following new sub-  
 9 section:

10 “(h)(1) With respect to disabled children provided  
 11 medical assistance under section  
 12 1902(a)(10)(A)(ii)(XVIII), subject to paragraph (2), a  
 13 State may (in a uniform manner for such children) require  
 14 the families of such children to pay monthly premiums set  
 15 on a sliding scale based on family income (as determined  
 16 under title XVI for children).

17 “(2) A premium requirement imposed under para-  
 18 graph (1) may only apply to the extent that—

19 “(A) the aggregate amount of such premium  
 20 and any premium that the parent or caretaker rel-  
 21 ative is required to pay for family coverage under  
 22 section 1902(aa)(3)(A)(i) does not exceed 7.5 per-  
 23 cent (5 percent, in the case of a family described in  
 24 section 1902(aa)(3)(B)(i)) of the family’s income;  
 25 and

1 “(B) the requirement is imposed consistent with  
2 section 1902(aa)(3)(A)(ii)(I).

3 “(3) A State shall not require prepayment of a pre-  
4 mium imposed pursuant to paragraph (1) and shall not  
5 terminate eligibility of a child under section  
6 1902(a)(10)(A)(ii)(XVIII) for medical assistance under  
7 this title on the basis of failure to pay any such premium  
8 until such failure continues for a period of not less than  
9 60 days from the date on which the premium became past  
10 due. The State may waive payment of any such premium  
11 in any case where the State determines that requiring  
12 such payment would create an undue hardship.”.

13 (c) INCREASED FEDERAL FINANCIAL ASSISTANCE  
14 FOR ADMINISTRATIVE COSTS.—Section 1903(a)(7) of the  
15 Social Security Act (42 U.S.C. 1396b(a)(7)) is amended—

16 (1) by inserting “(A)” after “(7)”;

17 (2) by striking the period and inserting “,  
18 and”; and

19 (3) by adding at the end the following new sub-  
20 clause:

21 “(B)(i) 90 percent of the sums expended during  
22 such a quarter within the twelve-quarter period be-  
23 ginning with the first quarter in which a payment is  
24 made to the State pursuant to this subparagraph,  
25 and

1           “(ii) 75 percent of the sums expended during  
 2           each succeeding calendar quarter,  
 3           with respect to administrative costs incurred during  
 4           such quarter (as found necessary by the Secretary)  
 5           for providing medical assistance to disabled children  
 6           under section 1902(a)(10)(A)(ii)(XVIII).”.

7           (d) CONFORMING AMENDMENT.—Section 1903(f)(4)  
 8 of the Social Security Act (42 U.S.C. 1396b(f)(4)) is  
 9 amended in the matter preceding subparagraph (A) by in-  
 10 serting “1902(a)(10)(A)(ii)(XVIII)” before “1905(p)(1)”.

11          (e) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to medical assistance for items and  
 13 services furnished on or after October 1, 2000.

14 **SEC. 3. TREATMENT OF INPATIENT PSYCHIATRIC HOS-**  
 15 **PITAL SERVICES FOR INDIVIDUALS UNDER**  
 16 **AGE 21 IN HOME OR COMMUNITY-BASED**  
 17 **SERVICES WAIVERS.**

18          (a) IN GENERAL.—Section 1915(c) of the Social Se-  
 19 curity Act (42 U.S.C. 1396n(c)) is amended—

20           (1) in paragraph (1)—

21           (A) in the first sentence, by inserting “, or  
 22           inpatient psychiatric hospital services for indi-  
 23           viduals under age 21,” after “intermediate care  
 24           facility for the mentally retarded”; and



1 (B) in the second sentence, by inserting “,  
2 or inpatient psychiatric hospital services for in-  
3 dividuals under age 21” before the period;

4 (2) in paragraph (2)(B), by striking “or serv-  
5 ices in an intermediate care facility for the mentally  
6 retarded” each place it appears and inserting “,  
7 services in an intermediate care facility for the men-  
8 tally retarded, or inpatient psychiatric hospital serv-  
9 ices for individuals under age 21”;

10 (3) by striking paragraph (2)(C) and inserting  
11 the following:

12 “(C) such individuals who are determined to be  
13 likely to require the level of care provided in a hos-  
14 pital, nursing facility, or intermediate care facility  
15 for the mentally retarded, or inpatient psychiatric  
16 hospital services for individuals under age 21, are  
17 informed of the feasible alternatives, if available  
18 under the waiver, at the choice of such individuals,  
19 to the provision of inpatient hospital services, nurs-  
20 ing facility services, services in an intermediate care  
21 facility for the mentally retarded, or inpatient psy-  
22 chiatric hospital services for individuals under age  
23 21;” and

24 (4) in paragraph (7)(A)—

1 (A) by inserting “, or inpatient psychiatric  
 2 hospital services for individuals under age 21,”  
 3 after “intermediate care facility for the men-  
 4 tally retarded”; and

5 (B) by inserting “, or who would require  
 6 inpatient psychiatric hospital services for indi-  
 7 viduals under age 21” before the period.

8 (b) EFFECTIVE DATE.—The amendments made by  
 9 subsection (a) apply with respect to medical assistance  
 10 provided on or after October 1, 2000.

11 **SEC. 4. DEMONSTRATION OF COVERAGE UNDER THE MED-**  
 12 **ICAID PROGRAM OF CHILDREN WITH POTEN-**  
 13 **TIALY SEVERE DISABILITIES.**

14 (a) STATE APPLICATION.—A State may apply to the  
 15 Secretary of Health and Human Services (in this section  
 16 referred to as the “Secretary”) for approval of a dem-  
 17 onstration project (in this section referred to as a “dem-  
 18 onstration project”) under which up to a specified max-  
 19 imum number of children with a potentially severe dis-  
 20 ability (as defined in subsection (b)) are provided medical  
 21 assistance under the State medicaid plan under title XIX  
 22 of the Social Security Act (42 U.S.C. 1396 et seq.).

23 (b) CHILD WITH A POTENTIALLY SEVERE DIS-  
 24 ABILITY DEFINED.—

1 (1) IN GENERAL.—In this section, the term  
2 “child with a potentially severe disability” means,  
3 with respect to a demonstration project, an indi-  
4 vidual who—

5 (A) has not attained 21 years of age;

6 (B) has a physical or mental condition,  
7 disease, disorder (including a congenital birth  
8 defect), injury, or developmental disability that  
9 was incurred before the individual attained such  
10 age; and

11 (C) is reasonably expected, but for the re-  
12 ceipt of medical assistance under the State  
13 medicaid plan, to reach the level of disability  
14 defined under section 1614(a)(3) of the Social  
15 Security Act (42 U.S.C. 1382c(a)(3)), (deter-  
16 mined without regard to the reference to age in  
17 subparagraph (C) of that section).

18 (2) EXCEPTION.—Such term does not include  
19 an individual who would be considered disabled  
20 under section 1614(a)(3)(C) of the Social Security  
21 Act (42 U.S.C. 1382c(a)(3)(C)) (determined without  
22 regard to the reference to age in that section).

23 (c) APPROVAL OF DEMONSTRATION PROJECTS.—

24 (1) IN GENERAL.—Subject to paragraph (3),  
25 the Secretary shall approve applications under sub-

1 section (a) that meet the requirements of paragraph  
2 (2) and such additional terms and conditions as the  
3 Secretary may require. The Secretary may waive the  
4 requirement of section 1902(a)(1) of the Social Se-  
5 curity Act (42 U.S.C. 1396a(a)(1)) to allow for sub-  
6 State demonstrations.

7 (2) TERMS AND CONDITIONS OF DEMONSTRA-  
8 TION PROJECTS.—The Secretary may not approve a  
9 demonstration project under this section unless the  
10 State provides assurances satisfactory to the Sec-  
11 retary that the following conditions are or will be  
12 met:

13 (A) INDEPENDENT EVALUATION.—The  
14 State provides for an independent evaluation of  
15 the project to be conducted during fiscal year  
16 2005.

17 (B) CONSULTATION FOR DEVELOPMENT  
18 OF CRITERIA.—The State consults with appro-  
19 priate pediatric health professionals in estab-  
20 lishing the criteria for determining whether a  
21 child has a potentially severe disability.

22 (C) ANNUAL REPORT.—The State submits  
23 an annual report to the Secretary (in a uniform  
24 form and manner established by the Secretary)

1 on the use of funds provided under the grant  
2 that includes the following:

3 (i) Enrollment and financial statistics

4 on—

5 (I) the total number of children  
6 with a potentially severe disability en-  
7 rolled in the demonstration project,  
8 disaggregated by disability;

9 (II) the services provided by cat-  
10 egory or code and the cost of each  
11 service so categorized or coded; and

12 (III) the number of children en-  
13 rolled in the demonstration project  
14 who also receive services through pri-  
15 vate insurance.

16 (ii) With respect to the report sub-  
17 mitted for fiscal year 2005, the results of  
18 the independent evaluation conducted  
19 under subparagraph (A).

20 (iii) Such additional information as  
21 the Secretary may require.

22 (3) LIMITATIONS ON FEDERAL FUNDING.—

23 (A) APPROPRIATION.—

24 (i) IN GENERAL.—Out of any funds in  
25 the Treasury not otherwise appropriated,

1           there is appropriated to carry out this sec-  
2           tion \$50,000,000 for each of fiscal years  
3           2001 through 2006.

4                   (ii) BUDGET AUTHORITY.—Clause (i)  
5           constitutes budget authority in advance of  
6           appropriations Acts and represents the ob-  
7           ligation of the Federal Government to pro-  
8           vide for the payment of the amounts ap-  
9           propriated under clause (i).

10           (B) LIMITATION ON PAYMENTS.—In no  
11           case may—

12                   (i) the aggregate amount of payments  
13           made by the Secretary to States under this  
14           section exceed \$300,000,000;

15                   (ii) the aggregate amount of payments  
16           made by the Secretary to States for ad-  
17           ministrative expenses relating to the eval-  
18           uations and annual reports required under  
19           subparagraphs (B) and (D) of paragraph  
20           (2)    exceed    \$6,000,000    of    such  
21           \$300,000,000; or

22                   (iii) payments be provided by the Sec-  
23           retary for a fiscal year after fiscal year  
24           2009.

25           (C) FUNDS ALLOCATED TO STATES.—

1 (i) IN GENERAL.—The Secretary shall  
2 allocate funds to States based on their ap-  
3 plications and the availability of funds. In  
4 making such allocations, the Secretary  
5 shall ensure an equitable distribution of  
6 funds among States with large populations  
7 and States with small populations.

8 (ii) AVAILABILITY.—Funds allocated  
9 to a State under a grant made under this  
10 section for a fiscal year shall remain avail-  
11 able until expended.

12 (D) FUNDS NOT ALLOCATED TO STATES.—  
13 Funds not allocated to States in the fiscal year  
14 for which they are appropriated shall remain  
15 available in succeeding fiscal years for alloca-  
16 tion by the Secretary using the allocation for-  
17 mula established under this section.

18 (E) PAYMENTS TO STATES.—The Sec-  
19 retary shall pay to each State with a dem-  
20 onstration project approved under this section,  
21 from its allocation under subparagraph (C), an  
22 amount for each quarter equal to the Federal  
23 medical assistance percentage (as defined in  
24 section 1905(b) of the Social Security Act (42  
25 U.S.C. 1395d(b))) of expenditures in the quar-

1           ter for medical assistance provided to children  
2           with a potentially severe disability.

3           (d) RECOMMENDATION.—Not later than October 1,  
4 2004, the Secretary shall submit a recommendation to the  
5 Committee on Commerce of the House of Representatives  
6 and the Committee on Finance of the Senate regarding  
7 whether the demonstration project established under this  
8 section should be continued after fiscal year 2006.

9           (e) STATE DEFINED.—In this section, the term  
10 “State” has the meaning given such term for purposes of  
11 title XIX of the Social Security Act (42 U.S.C. 1396 et  
12 seq.).

13 **SEC. 5. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAM-**  
14 **ILY HEALTH INFORMATION CENTERS.**

15           Section 501 of the Social Security Act (42 U.S.C.  
16 701) is amended by adding at the end the following new  
17 subsection:

18           “(c)(1)(A) In addition to amounts appropriated  
19 under subsection (a) and retained under section 502(a)(1)  
20 for the purpose of carrying out activities described in sub-  
21 section (a)(2), there is appropriated to the Secretary, out  
22 of any money in the Treasury not otherwise appropriated,  
23 for the purpose of enabling the Secretary (through grants,  
24 contracts, or otherwise) to provide for special projects of  
25 regional and national significance for the development and



1 support of family-to-family health information centers de-  
2 scribed in paragraph (2), \$10,000,000 for each of fiscal  
3 years 2001 through 2006.

4 “(B) Funds appropriated under subparagraph (A)  
5 shall remain available until expended.

6 “(2) The family-to-family health information centers  
7 described in this paragraph are centers that—

8 “(A) assist families of children with disabilities  
9 or special health care needs to make informed  
10 choices about health care in order to promote good  
11 treatment decisions, cost-effectiveness, and improved  
12 health outcomes for such children;

13 “(B) provide information regarding the health  
14 care needs of, and resources available for, children  
15 with disabilities or special health care needs;

16 “(C) identify successful health delivery models  
17 for such children;

18 “(D) develop with representatives of health care  
19 providers, managed care organizations, health care  
20 purchasers, and appropriate State agencies a model  
21 for collaboration between families of such children  
22 and health professionals;

23 “(E) provide training and guidance regarding  
24 caring for such children;

1           “(F) conduct outreach activities to the families  
2           of such children, health professionals, schools, and  
3           other appropriate entities and individuals; and

4           “(G) are staffed by families of children with  
5           disabilities or special health care needs who have ex-  
6           pertise in Federal and State public and private  
7           health care systems and health professionals.

8           “(3) The provisions of this title that are applicable  
9           to the funds made available to the Secretary under section  
10          502(a)(1) apply in the same manner to funds made avail-  
11          able to the Secretary under paragraph (1).”.

○